

ORDINANCE NO. 2450

AN ORDINANCE OF THE CITY OF POCATELLO, A MUNICIPAL CORPORATION OF IDAHO, ENACTING A NEW CHAPTER 8.20, "SOLID FUEL BURNING REGULATIONS," OF THE REVISED AND COMPILED ORDINANCES OF THE CITY OF POCATELLO, 1983; PROVIDING DEFINITIONS; PROHIBITING THE BURNING OF REFUSE OR OTHER SOLID MATERIAL, OPERATION OF ANY SOLID WASTE INCINERATOR, SOLID FUEL HEATING APPLIANCE, OR OPEN FIREPLACE DURING A DECLARED AIR QUALITY ALERT; PROVIDING EXCEPTIONS FOR (1) THOSE WHICH ARE THE SOLE SOURCE OF HEAT FOR THE ENTIRE RESIDENCE AND WHICH ARE SO REGISTERED WITH THE POCATELLO FIRE DEPARTMENT AND (2) FOR THOSE WHICH HAVE NO VISIBLE EMISSIONS AND FOR WHICH AN EXEMPTION HAS BEEN GRANTED AND AN EXEMPTION DECAL IS VISIBLE FROM A PLACE OF PUBLIC ACCESS; PROVIDING FOR APPEALS FROM DENIAL OF EXEMPTIONS; PROHIBITING THE SALE OR OFFERING FOR SALE OF ANY SOLID FUEL BURNING APPLIANCE WHICH IS NOT LISTED BY THE EPA, OR EXEMPTED BY THE EPA FROM SUCH LISTING, WITHIN THE CITY LIMITS OF THE CITY OF POCATELLO; PROVIDING THAT A PERMIT MUST BE OBTAINED FROM THE POCATELLO FIRE DEPARTMENT PRIOR TO INSTALLATION OF ANY SOLID FUEL BURNING APPLIANCE; PROVIDING THAT THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT FROM AND AFTER ITS PASSAGE, APPROVAL, AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the City of Pocatello has been classified as a Non-Attainment Area in terms of its air quality; and

WHEREAS, the City is required to take measures to protect air quality, particularly during periods of air stagnation conditions when concentrations of particulate matter exceed acceptable levels; and

WHEREAS, controlling emissions from solid fuel and refuse burning during periods of air quality "alerts" is an effective means of moderating the amount of air-borne particulate matter;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF POCATELLO AS FOLLOWS:

Section 1: That a new Chapter 8.20, "Air Quality Protection" be enacted to read as follows:

**§.20.010. Purpose.** The purpose of this chapter is to protect air quality resources vital to the public health, safety, and welfare of the citizens of Pocatello by controlling emissions from solid fuel and refuse burning.

**§.20.020. Definitions.** For purposes of this chapter, the following terms and phrases shall have the meanings given herein. The word "shall" is always mandatory and not merely directive.

**A. Air Pollution:** the presence in the outdoor atmosphere of any contaminate or combinations thereof in such quality or of such nature and duration and under such conditions as would be injurious to human health or welfare, to plant or animal life, or to property, or as would be an unreasonable interference with the enjoyment of life or property.

**B. Building:** any structure, dwelling, office, industrial plant, garage, bar, and the like, whether publicly or privately owned, or any other structure as defined by the Uniform Building Code.

**C. Burn Down:** that period of time following an air pollution alert required for the cessation of combustion within solid fuel heating appliance or any outdoor fires or other burning or incineration.

**D. Clean Burning Appliance:** A solid fuel heating appliance that has been certified as a clean burning appliance by either the Idaho Division of Environmental Quality or the United States Environmental Protection Agency.

E. Fireplace: a residential solid fuel burning device with an air-to-fuel ratio of greater than thirty which is a permanent structural feature of a building. A fireplace is made up of a concealed masonry or metal flue and a masonry or metal firebox enclosed in decorative masonry or other building materials. A residential solid fuel burning device which is freestanding or which is installed into an existing "fireplace" opening is not included in the definition of fireplace.

F. Refuse. All solid waste, garbage, and rubbish, including but not limited to cardboard, plastic, rubber, styrofoam, petroleum products, food stuff, Christmas trees, yard debris, or chemically treated wood.

G. Refuse Incinerator. Any device designed or operated to reduce the volume of refuse through burning or incineration. Natural gas-fired pathological incinerators are excluded.

H. Sole Source of Heat. A heating device which by itself, or in combination with other(s) of the same type, serves as the only source of heat in a building for the purpose of space heating. No solid fuel heating device(s) shall be considered the sole source of heat if the building is equipped with a permanently installed furnace or heating system utilizing oil, natural gas, electricity, or propane, designed to heat the building--whether such system is connected, unconnected, or removed from its energy source.

I. **Solid Fuel:** Non-liquid combustible material including wood, coal, pressed logs, pellet fuel, but excluding items defined as refuse herein.

J. **Solid Fuel Heating Appliance:** An enclosed device designed for solid fuel combustion that meets all of the following criteria:

1. an air-to-fuel ratio averaging less than thirty-five to one;
2. firebox volume less than twenty cubic feet;
3. minimum burn rate less than five kilograms per hour; and
4. maximum weight of less than eight hundred kilograms.

Specifically excluded are furnaces, boilers, cook stoves, and fireplaces.

8.20.030 Regulations for burning of solid fuel or refuse.

A. No person shall cause or allow refuse or coal to be burned in a solid fuel heating appliance designed for wood fuel.

B. No person shall cause or allow a refuse incinerator to be operated contrary to the design, specification, or manufacturer's instructions.

C. No person shall cause, or allow, to be burned any railroad ties, treated wood, carcinogens, or any materials treated with carcinogens.

D. No person shall operate a residential solid fuel burning device or fireplace if the visible emissions exceed 20% opacity as measured by EPA Method 9, except as follows:

1. During an initial fifteen minute start-up period
2. During refueling operations which may not exceed a fifteen minute period in any three hour period.

**8.20.040 Solid Fuel Heating Appliance Restrictions and Permits.**

A. From and after December 1, 1993, no person may sell or offer for sale within the city limits of Pocatello any solid fuel heating appliance which is not listed and certified by the EPA as a clean burning appliance or exempt from such listing pursuant to EPA regulations.

B. No person shall install any solid fuel heating appliance in any new or existing building without first having obtained a permit to do so from the Pocatello Fire Department on forms provided by the Fire Prevention Division. In order for such a permit to be granted, all such appliances shall be listed and certified by the EPA as clean burning appliances or exempt from such listing pursuant to EPA regulations. Installations shall be in accordance with the Uniform Fire Code and manufacturer's instructions.

C. From and after December 1, 1993, no person shall construct, or attempt to construct, any building for which a solid fuel burning appliance will be the sole source of heat.

**8.20.050. Air Quality Designations and Alert Criteria, Notification.** The City hereby adopts the Idaho

Division of Environmental Quality's health effect designations for varying levels of particulate matter as set forth below (PM-10 indicating particulate matter with an aerodynamic diameter less than or equal to ten microns):

| <u>Health Effect Designation</u> | <u>PM-10 Concentrations/cubic meter</u> |
|----------------------------------|---|
| Good                             | 0-50                                    |
| Moderate                         | 51-150                                  |
| Unhealthful                      | 151-350                                 |
| Very Unhealthful                 | 351-420                                 |
| Hazardous                        | >420                                    |

B. The Idaho Division of Environmental Quality declares "air quality alerts" whenever it measures levels of PM-10 concentration exceeding 120 micrograms and weather forecasts indicate air stagnation conditions will continue for at least 24 hours. When the Division informs the City that such conditions exist and notifies local print, radio, and television news media that an air pollution alert is being declared, the City shall also post notice of the air pollution alert in the same manner as City Council meeting notices.

**8.20.060 Prohibition on burning during alert.**

Whenever an air quality alert has been declared, the following prohibitions on burning shall apply:

A. No person shall operate, or allow to be operated, a solid fuel heating appliance or fireplace.

B. No person shall operate or allow the operation of a refuse incinerator.

B. No person shall cause or allow to occur, any open burning of any materials or fuel.

8.20.070. Exemptions to burning prohibitions.

A. All solid fuel burning appliances classified by the EPA as a clean burning appliance or specifically exempted pursuant to EPA regulations from such listing may be operated during such alerts.

B. A three-hour burn-down period shall be allowed for solid fuel heating appliances or fireplaces not so listed whose operation was commenced prior to the air quality alert.

C. Any solid fuel burning device which is the sole source of heat for the building in which it is situated may be operated during air quality alerts provided:

1. The appliance is registered and certified by the Pocatello Fire Department as the sole source of heat;
2. An exemption decal for the appliance is prominently displayed in a place visible from the public right-of-way or other place of public access; and
3. Using alternative heating would cause an unreasonable economic hardship.

8.20.080 Appeals. Any person denied an exemption decal under this Chapter shall be provided, at his option, a hearing before the City Council. The decision of the City Council on a denial shall be final and conclusive. Any further appeals must be made to the Sixth Judicial District Court of the State of Idaho.

8.20.090 Penalty. A violation of any of the provisions of this chapter or the failure to perform any duty, or obtain any permit, or otherwise comply with any requirements of

this chapter is hereby declared unlawful and punishable as a misdemeanor.

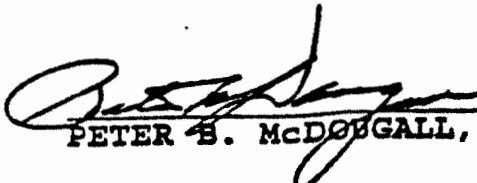
BE IT FURTHER ORDAINED that this ordinance shall be in full force and effect from and after its passage, approval, and publication according to law.

PASSED AND APPROVED this        day of   J  ,  
1994.

CITY OF POCA TELLO, a municipal corporation of Idaho

  
\_\_\_\_\_  
PETER J. ANGSTADT, Mayor

ATTEST:

  
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PETER B. McDOUGALL, City Clerk

PUBLISHED: 1-12-74